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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199075
Party	Defendant Diageo North America, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/183,731
Published in the Official Gazette on February 22, 2011
Mark: BLUETAIL
International Class: 33

CASELLA WINES PTY LTD.,

Opposer,

Opposition No. 91199075

-against-

DIAGEO NORTH AMERICA, INC.,

Applicant.

**APPLICANT'S ANSWER IN
RESPONSE TO OPPOSER'S NOTICE OF OPPOSITION**

Applicant Diageo North America, Inc. ("Diageo"), by its undersigned counsel, for its Answer to Opposer Casella Wine Pty Ltd.'s ("Casella") March 21, 2011 Notice of Opposition (the "Notice of Opposition"), states as follows:

Diageo denies the allegations contained in the unnumbered introductory paragraph of the Notice of Opposition, except (i) admits that Casella has opposed Diageo's Application Serial No. 85/138,731, and (ii) denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the corporate form, country of incorporation, or principal place of business of Casella, and therefore denies such allegations.

1. Diageo denies knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 1 of the Notice of Opposition, and

therefore denies such allegations. To the extent that Paragraph 1 of the Notice of Opposition offers conclusions of law, no answer is required.

2. Diageo denies knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 2 of the Notice of Opposition, and therefore denies such allegations. To the extent that Paragraph 2 of the Notice of Opposition offers conclusions of law, no answer is required, and to the extent that Paragraph 2 refers to certain U.S. trademark registrations, Diageo respectfully refers the Board to those registrations for their contents, which speak for themselves.

3. Diageo denies knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 3 of the Notice of Opposition, and therefore denies such allegations. To the extent that Paragraph 3 of the Notice of Opposition offers conclusions of law, no answer is required.

4. Diageo denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice of Opposition, and therefore denies such allegations.

5. Diageo repeats and realleges its answers to paragraphs 1 through 4 of Casella's Notice of Opposition above as if fully set forth herein.

6. Diageo admits that it filed its Application Serial No. 85/183,731 to register BLUETAIL on November 23, 2010, and respectfully refers the Board to that application for its contents, which speak for themselves.

7. Diageo admits that it filed its Application Serial No. 85/183,731 on an intent-to-use basis, and respectfully refers the Board to that application for its contents, which speak for themselves.

8. Diageo denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice of Opposition, and therefore denies such allegations.

9. Diageo denies the allegations contained in Paragraph 9 of the Notice of Opposition.

10. Diageo denies the allegations contained in Paragraph 10 of the Notice of Opposition.

11. Diageo denies the allegations contained in Paragraph 11 of the Notice of Opposition.

12. Diageo denies the allegations contained in Paragraph 12 of the Notice of Opposition.

13. Diageo repeats and realleges its answers to paragraphs 1 through 12 of Casella's Notice of Opposition above as if fully set forth herein.

14. Diageo denies knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph 14 of the Notice of Opposition, and therefore denies such allegations. To the extent that Paragraph 14 of the Notice of Opposition offers conclusions of law, no answer is required.

15. Diageo denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Notice of Opposition, and therefore denies such allegations.

16. Diageo denies the factual allegations contained in Paragraph 16 of the Notice of Opposition, except that it denies knowledge or information sufficient to form a belief as to the truth of the factual allegations concerning Casella or its YELLOW TAIL mark contained in

Paragraph 16 of the Notice of Opposition, and therefore denies such allegations. To the extent that Paragraph 16 of the Notice of Opposition offers conclusions of law, no answer is required.

17. Diageo denies the allegations contained in Paragraph 17 of the Notice of Opposition.

18. Diageo denies the allegations contained in Paragraph 18 of the Notice of Opposition.

19. Diageo denies the allegations contained in Paragraph 19 of the Notice of Opposition.

Diageo also denies the allegations contained in the unnumbered final two paragraphs of the Notice of Opposition, except admits that Casella seeks certain relief by this opposition.

FIRST AFFIRMATIVE DEFENSE

The Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Certain paragraphs of the Notice of Opposition do not comply with Fed. R. Civ. P. 8(a) and (e), which require a “short and plain statement of the claim showing the pleader is entitled to relief,” and 37 C.F.R. 2.104(a) and TBMP 312.03, which require a “short and plain statement” of the reasons why Casella believes it would be damaged by the registration of the mark at issue. Accordingly, Diageo is not required to separately admit or deny each of the multiple allegations contained therein.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed with prejudice and that Application Serial No. 85/183,731 for BLUETAIL in International Class 33 proceed to registration.

Dated: Norwalk, Connecticut
April 28, 2011

Respectfully submitted,



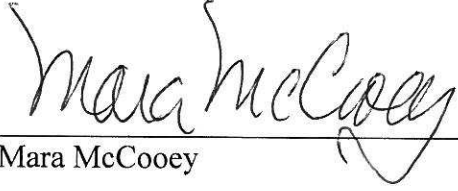
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Counsel for Opposer Diageo North America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing
APPLICANT'S ANSWER IN RESPONSE TO NOTICE OF OPPOSITION to be served, via
first class mail, postage prepaid, on this 28th day of April 2011, to Opposer's counsel at the
address set forth in the Notice of Opposition:

Alfred Zaher, Esq.
Blank Rome, LLP
One Logan Square
Philadelphia, Pennsylvania 19103


Mara McCooey